

Minutes
State Bar of California
Business Law Section Standing Committee on Insurance
Friday, February 8, 2008
Chadbourn & Parke LLP
350 South Grand Avenue, Suite 3300
Los Angeles, California 90071

The meeting was commenced at 12:04 P.M.

Present: In person – Rex Frazier (Chair), Robin Ball, Frank Ceglar, Robert Peterson, Barry Weissman, Ken Schild (guest), Charles Crouch (State Bar Liaison)

Present: By telephone: Laszlo Komjathy Jr., Cathy Schwamberger, Patricia Staggs

Guest Speaker: Sherwood “Woody” P. Girion, CIC, Deputy Commissioner, Rate Regulation Branch, California Department of Insurance.

Mr. Girion discussed issues related to:

--Prior Approval Variance Process. He noted that the Department had a target for holding a workshop on new regulations on February 26th. Unless modified by the Commissioner, one might expect these regs. to be published one week prior to the 26th.

--Auto Rating Factor Regulations. The Department is reviewing its work load projection for when companies must file their class plans and rate plans to be in 100% compliance by the end of July. It was suggested that some companies are holding off because under the present rules both a class plan and a rate plan must be filed. It was suggested that if a revenue neutral class plan could be filed, perhaps there was no need for a rate plan. There was some discussion and disagreement as to whether there is such a thing as a revenue neutral class plan.

--Mileage Rating Factor. There is some dispute whether using a mileage estimator (a proprietary product of ISO) is a rating factor, or is merely in aid of complying with the mileage rating factor in Prop. 103. There was some discussion about the frustration insurers experience when they must accept insured's estimates with respect to one of the top three rating factors required by Prop. 103. One of the consequences of inadequate information may be the necessity to “pump” this rating factor higher than it should be in order to bring other rating factors into line with Prop. 103. It was noted that there is a proposal by a legislator to try a pilot project in which electronic sensors would transmit the miles driven to the insurer, and the insured would be billed accordingly. There are a number of privacy issues that would have to be addressed.

--CDI University—Mr. Girion said that the Department is looking for speakers who might serve as a continuing education source for regulators in the department at all

levels. They hold sessions in San Francisco and Los Angeles. Interested speakers should contact him.

Legislative Review

SB 1167 (Wiggins). This bill addresses the insured's right, found in the Insurance Code, to choose the body shop of their choice. The issue is whether and when an insurer may suggest to an insured that they review specific matters, such as length of warranty, where the insurer's direct repair provider may offer more than a non-contracting body shop (e.g., lifetime warranty versus 60-90 days). It was suggested that there may be First Amendment issues surrounding restricting this kind of communication between an insurer and the insured.

Homeowners Surcharge. The Governor is floating a proposal to surcharge homeowners' policies 1.25% (raising about \$125,000,000) to fund fire fighting. If viewed as a tax, one may expect considerable resistance from Republicans. If viewed as an assessment (requiring only a majority), still there are issues of subsidies. Los Angeles homeowners, who it was reported have assessed themselves already, may resist subsidizing San Diego, which has not.

There is a bill from Joe Coto proposing that CEA be permitted to sell earthquake policies with limits lower than Coverage A in homeowners policies. The purpose is to lower the deductible, which at present is a percentage of coverage A (typically 15%). It was noted that this may increase rates for the reason that the deductible is a much more significant loss factor than the total coverage. It may be far more likely that there will be a loss in excess of a lower deductible than there will be a total, or near total, loss.

There is a bill to mandate the use of original replacement parts in auto repairs if made during the warranty period of the car. It was suggested that, given the very long warranty periods for newer cars, this would mean virtually during the life of the car.

Membership

Amy Dobberteen's application to join the committee was moved and approved.

Minutes

The minutes of the January 11, 2008 meeting were moved and approved

The calendar for future meetings was reviewed. Adam Cole, General Counsel, will speak at our meeting on March 14 in San Francisco. Patricia Staggs suggested that if there are specific questions committee members would like Mr. Cole to address, perhaps they might email them to her two weeks prior to the meeting so that he might prepare.

Ken Schild gave a brief presentation on the results of the recent BSA audit with respect to Executive Life Insurance Co.

The meeting adjourned at 1:34 P.M.

Respectfully submitted,

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